

TITLE 48
MONOPOLIES AND TRADE PRACTICES

CHAPTER 3
IDAHO PATIENT ACT [EFFECTIVE JANUARY 1, 2021]

48-301. SHORT TITLE. [EFFECTIVE JANUARY 1, 2021] This act shall be known and may be cited as the "Idaho Patient Act."

[48-301, added 2020, ch. 139, sec. 1, p. 426.]

48-302. LEGISLATIVE INTENT. [EFFECTIVE JANUARY 1, 2021] The Idaho legislature finds that medical billing practices have little visibility to Idaho citizens. As a result, consumers often find themselves in collection actions for debts they were unaware of, from health care providers whom they do not recognize. Once in collections, current Idaho law enables excessive attorney's fees and fails to provide judges with clear guidance to combat abuses of the collections process. This chapter shall govern the fair collection of debts owed to health care providers.

[48-302, added 2020, ch. 139, sec. 1, p. 426.]

48-303. DEFINITIONS. [EFFECTIVE JANUARY 1, 2021] For the purposes of this chapter:

(1) "Consolidated summary of services" means a written notice that contains, at a minimum, the following:

(a) The name and contact information, including telephone number, of the patient;

(b) The name and contact information, including telephone number, of the health care facility that the patient visited to receive goods or services;

(c) The date and duration of the visit to the health care facility by the patient;

(d) A general description of goods and services provided to the patient during the visit to the health care facility, including the name, address, and telephone number of each billing entity whose health care providers provided the services and goods to the patient; and

(e) A clear and conspicuous notification at the top of the notice that states: "This is Not a Bill. This is a Summary of Medical Services You Received. Retain This Summary for Your Records. Please Contact Your Insurance Company and the Health Care Providers Listed on this Summary to Determine the Final Amount You May Be Obligated to Pay."

(2) "Contested judgment" means a court judgment sought by one (1) party that is challenged by another party through a filing with the court or by presenting evidence or argument at a hearing before the court.

(3) "Extraordinary collection action" means any of the following actions done in connection with a patient's debt:

(a) Prior to sixty (60) days from the patient's receipt of the final statement, selling, transferring, or assigning any amount of a patient's debt to any third-party, or otherwise authorizing any third-party to collect the debt in a name other than the name of the health care provider;

(b) Reporting adverse information about the patient to a consumer reporting agency; or

(c) Commencing any judicial or legal action or filing or recording any document in relation thereto, including but not limited to:

- (i) Placing a lien on a person's property or assets;
- (ii) Attaching or seizing a person's bank account or any other personal property;
- (iii) Initiating a civil action against any person; or
- (iv) Garnishing an individual's wages.

(4) "Final statement" means a written notice that contains, at a minimum, the following:

- (a) The name and contact information, including telephone number, of the patient;
- (b) The name and contact information, including telephone number, of the health care facility where the health care provider provided goods and services to the patient;
- (c) A list of the goods and services that the health care provider provided to the patient during the patient's visit to the health care facility, including the initial charges for the goods and services and the date the goods and services were provided, in reasonable detail;
- (d) A statement that a full itemized list of goods and services provided to the patient is available upon the patient's request;
- (e) The name of the third-party payors to which the charges for health care services were submitted by the health care provider and the patient's group and membership numbers;
- (f) A detailed description of all reductions, adjustments, offsets, third-party payor payments, including payments already received from the patient, that adjust the initial charges for the goods and services provided to the patient during the visit; and
- (g) The final amount that the patient is liable to pay after taking into account all applicable reductions, including but not limited to the items identified in paragraph (f) of this subsection.

(5) "Health care facility" means any person, entity, or institution operating a physical or virtual location that holds itself out to the public as providing health care services through itself, through its employees, or through third-party health care providers. Health care facilities include but are not limited to hospitals and other licensed inpatient centers; ambulatory surgical or treatment centers; skilled nursing centers; residential treatment centers; urgent care centers; diagnostic, laboratory, and imaging centers; and rehabilitation and other therapeutic health settings, as well as medical transportation providers.

(6) "Health care provider" means:

- (a) A physician or other health care practitioner licensed, accredited, or certified to perform health care services consistent with state law, or any agent or third-party representative thereof; or
- (b) A health care facility or its agent.

(7) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(8) "Patient" means a person who seeks or receives services from a health care provider. For the purposes of this chapter, "patient" includes a parent if the patient is a minor, a legal guardian if the patient is an adult under guardianship, or any person contractually or otherwise liable for the financial obligations of the person receiving goods or services from the health care provider.

(9) "Third-party payor" means a health carrier as defined in section [41-5903](#), Idaho Code, or a self-funded plan as defined in section [41-4002](#) or [41-4102](#), Idaho Code.

(10) "Uncontested judgment" means a court judgment sought by one (1) party that is not contested by another party by filing with the court or by presenting evidence or argument at a hearing before the court.

[48-303, added 2020, ch. 139, sec. 1, p. 426.]

48-304. REQUIREMENTS FOR EXTRAORDINARY COLLECTION ACTION. [EFFECTIVE JANUARY 1, 2021] No person shall engage, directly or indirectly, in any extraordinary collection action against a patient unless:

(1) Within forty-five (45) days from the date of the provision of goods or the delivery of services to the patient or from the date of discharge of the patient from a health care facility, whichever is later, a health care provider submits its charges related to the provision of goods or services to the third-party payor or payors of the patient, identified by the patient to the health care provider in connection with the services, if any, or, in the event no third-party payor was identified, to the patient;

(2) Within sixty (60) days from the date of the provision of goods or services to the patient or from the date of discharge, whichever is later, the patient receives from the health care facility that the patient visited, a consolidated summary of services, free of charge, unless the health care facility is exempted from providing a consolidated summary of services pursuant to section [48-309](#), Idaho Code;

(3) The patient receives, free of charge, a final statement from the billing entity of the health care provider;

(4) The health care provider does not charge or cause to accrue any interest, fees, or other ancillary charges until at least sixty (60) days have passed from the date of receipt of the final statement; and

(5) At least ninety (90) days have passed from receipt of the final statement by the patient and final resolution of all internal reviews, good faith disputes, and appeals of any charges or third-party payor obligations or payments.

[48-304, added 2020, ch. 139, sec. 1, p. 428.]

48-305. FEES AND COSTS FOR EXTRAORDINARY COLLECTION ACTION. [EFFECTIVE JANUARY 1, 2021] (1) Notwithstanding any provision of law or agreement to the contrary, a patient shall have no liability to any party taking extraordinary collection action for costs, expenses, and fees, including attorney's fees, unless the party has complied with section [48-304](#), Idaho Code, and then subject to the following limitations:

(a) In the case of an uncontested judgment against the patient, the court may award, in addition to the outstanding principal, up to three hundred fifty dollars (\$350) or an amount equal to one hundred percent (100%) of the outstanding principal amount, whichever is less, plus any prejudgment interest accrued in accordance with section [48-304](#)(4), Idaho Code, and any postjudgment interest awarded by the court;

(b) In the case of a contested judgment against the patient, the court may award, in addition to the outstanding principal, up to seven hundred fifty dollars (\$750) or an amount equal to one hundred percent (100%) of the outstanding principal amount, whichever is less, plus any prejudg-

ment interest accrued in accordance with section [48-304](#)(4), Idaho Code, and any postjudgment interest awarded by the court;

(c) In the case of postjudgment motions and writs, the court may award up to seventy-five dollars (\$75.00) for any successful motion or application for a writ of attachment to any particular garnishee and twenty-five dollars (\$25.00) for any subsequent application for a writ to the same garnishee. In the case of garnishments, the court may also award service fees as prescribed by the applicable board of county commissioners pursuant to section [11-729](#), Idaho Code.

(2) In the case of a contested judgment, if a party taking extraordinary collection action against a patient prevails against a patient and incurs costs, expenses, and fees, including attorney's fees, that are grossly disproportionate to the award amounts set forth in subsection (1)(b) of this section, then the party may petition the court for a supplemental award for costs, expenses, and fees. Upon an affirmative showing that the incurred costs, expenses, and fees are grossly disproportionate to the award amounts set forth in subsection (1)(b) of this section, and that fees were incurred because of the patient's willful attempt to avoid paying a bona fide debt, then the court may take into account the factors outlined in rule 54(e)(3) of the Idaho rules of civil procedure and may, in its discretion, award supplemental costs, expenses, and reasonable attorney's fees.

(3) Notwithstanding any provision of law or agreement to the contrary, if a patient in a contested judgment is a prevailing party, then the patient shall be entitled to recover from a nonprevailing party all costs, expenses, and fees, including attorney's fees, incurred by the patient in contesting the action, and the patient shall have no liability to any nonprevailing parties for any costs, expenses, and fees, including attorney's fees and pre-judgment interest incurred by a nonprevailing party.

[48-305, added 2020, ch. 139, sec. 1, p. 428.]

48-306. EXTRAORDINARY COLLECTION AFTER UNTIMELY NOTICE -- LIMITATION.[EFFECTIVE JANUARY 1, 2021] If a party is unable to engage in an extraordinary collection action because the health care provider or health care facility failed to meet the timing requirements of section [48-304](#)(1) or (2), Idaho Code, but complies with such timing requirements within either an additional forty-five (45) days for failure to meet the timing requirements of section [48-304](#)(1), Idaho Code, or an additional ninety (90) days for failure to meet the timing requirements of section [48-304](#)(2), Idaho Code, then as long as all other requirements of section [48-304](#), Idaho Code, have been satisfied, such party may commence an extraordinary collection action. Notwithstanding any provision of law or agreement to the contrary, in any such collection action, the patient shall have no liability for costs, expenses, and fees, including attorney's fees.

[48-306, added 2020, ch. 139, sec. 1, p. 429.]

48-307. BURDEN OF PROOF.[EFFECTIVE JANUARY 1, 2021] Any person seeking to engage in an extraordinary collection action bears the burden of establishing that the requirements of sections [48-304](#) and [48-306](#), Idaho Code, if applicable, have been satisfied prior to engaging in any extraordinary collection action. Any party commencing a judicial action against a patient must plead with particularity its compliance with each requirement of sections [48-304](#) and [48-306](#), Idaho Code, as the case may be.

[48-307, added 2020, ch. 139, sec. 1, p. 429.]

48-308. REBUTTABLE PRESUMPTION OF RECEIPT. [EFFECTIVE JANUARY 1, 2021] A patient shall be presumed to have received a consolidated summary of services or a final statement three (3) days after the document has been sent by first class mail to the patient's address confirmed by the patient during the patient's last visit to the health care provider or as updated by the patient in subsequent written or electronic communications. Nothing in this section shall be interpreted as precluding the patient from agreeing in writing to receive consolidated summaries of services or final statements via email or other electronic means.

[48-308, added 2020, ch. 139, sec. 1, p. 429.]

48-309. DELIVERY OF CONSOLIDATED SUMMARY OF SERVICES. [EFFECTIVE JANUARY 1, 2021] Notwithstanding any provision of law to the contrary in this chapter, a health care facility is not required to send a consolidated summary of services to a patient prior to engaging in extraordinary collection action if:

(1) The patient will receive a final statement from a single billing entity for all goods and services provided to the patient at that health care facility;

(2) The patient was clearly informed in writing of the name, phone number, and address of the billing entity; and

(3) The health care facility otherwise complies with all other provisions of section [48-304](#), Idaho Code.

[48-309, added 2020, ch. 139, sec. 1, p. 430.]

48-310. CONTRACTED SERVICE.[EFFECTIVE JANUARY 1, 2021] Nothing in this chapter prohibits a health care facility from authorizing a health care provider by contract to provide the consolidated summary of services required by section [48-304](#) (2), Idaho Code, on its behalf.

[48-310, added 2020, ch. 139, sec. 1, p. 430.]

48-311. ENFORCEMENT AND CIVIL PENALTIES.[EFFECTIVE JANUARY 1, 2021] If any party takes any extraordinary collection action other than in accordance with section [48-304](#) or [48-306](#), Idaho Code, then:

(1) Notwithstanding any provision of law or agreement to the contrary, a patient shall have no liability to any party for any collection costs, expenses, and fees, including attorney's fees and prejudgment and postjudgment interest;

(2) The party is liable to the patient in an amount equal to any actual damages sustained by the patient as a result of any failure to comply, or one thousand dollars (\$1,000), whichever is greater; and

(3) Where a court finds a party has willfully or knowingly violated section [48-304](#) or [48-306](#), Idaho Code, the court may award up to three (3) times the amount of actual damages, or three thousand dollars (\$3,000), whichever is greater. In any successful action to enforce the liability set forth in this section, the patient shall be entitled to the costs of the action, together with reasonable attorney's fees, as determined by the court.

[48-311, added 2020, ch. 139, sec. 1, p. 430.]

48-312. NON-EXTRAORDINARY COLLECTION ACTIONS.[EFFECTIVE JANUARY 1, 2021] Nothing in this chapter shall be interpreted to restrict the ability of any person to demand and collect payment for the principal amount of any medical goods or services by means other than extraordinary collection action, as defined in section [48-303](#), Idaho Code.

[48-312, added 2020, ch. 139, sec. 1, p. 430.]

CHAPTER 4
UNFAIR SALES ACT